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July 16, 2018

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BY ELECTRONIC MAIL

Jeff S. Jordan, Esq.
Assistant General Counsel
Complaints Examination & Legal Administration
Federal Election Commission
1050 First Street, NE
Washington, DC 20463

Re: MUR 7391

Dear Mr. Jordan:

We write on behalf of the DCCC and its treasurer, Daniel Sena; Congressional candidate Jason Crow; and Jason Crow for Congress and its treasurer, Kristen Bear ("Respondents"), in response to the Complaint in MUR 7391. Because there is no reason to believe there has been a violation of the Federal Election Campaign Act of 1971, as amended, 52 U.S.C. § 30101 *et seq.* (the "Act"), or any of its implementing regulations, the Federal Election Commission ("FEC" or the "Commission") should dismiss this Complaint and take no further action.

FACTUAL DISCUSSION

Jason Crow is a Democratic candidate for Congress in Colorado's Sixth Congressional district.¹ His principal campaign committee is Jason Crow for Congress.² Jason Crow for Congress and the DCCC were both interested in polling and opinion information concerning the congressional election in the Sixth District. Accordingly, both committees obtained the same polling research from Global Strategy Group, a polling and research consultant,³ and both committees paid for an equal share of the costs of the polling.⁴

¹ Jason Crow, Statement of Candidacy (filed April 11, 2017) <http://docquery.fec.gov/pdf/222/201704119052076222/201704119052076222.pdf>.

² Jason Crow for Congress, Statement of Organization (filed May 8, 2018) <http://docquery.fec.gov/pdf/109/201805089111996109/201805089111996109.pdf>.

³ Global Strategy Group, *Our Story* <http://www.globalstrategygroup.com/about/our-story/>.

⁴ See Jason Crow for Congress, FEC Form 3, 2018 April 15 Quarterly 415 <http://docquery.fec.gov/cgi-bin/fecimg/?201804159108187440>; Id. at 416 <http://docquery.fec.gov/cgi-bin/fecimg/?201804159108187441>; DCCC, FEC Form 3X, 2018 Feb. Monthly 4,020, <http://docquery.fec.gov/cgi-bin/fecimg/?201802209094634061>; 2018 March Monthly 9,254, <http://docquery.fec.gov/cgi-bin/fecimg/?201803209096661338>; 2018 June Monthly 23,324, <http://docquery.fec.gov/cgi-bin/fecimg/?201806209114156146>.

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Aside from each committee paying for the allocable cost of the poll results that they both received, DCCC's involvement with the Jason Crow campaign was limited to invitations to monthly national briefings and webinars, to which all Democratic congressional candidates are given access. Although one of Crow's former primary opponents, David Aarestad, has made the naked allegation that the DCCC "made other resources available to Crow that they did not make available to [him], such as email lists for fundraising purposes,"⁵ neither Aarestad, the news article quoting him, nor the Complaint provide any evidence or basis to support this claim, and it is absolutely incorrect. In fact, DCCC has never provided Jason Crow or his Congressional campaign with any email lists or other mailings lists,⁶ or with any other campaign resources that would qualify as contributions under the Act.

LEGAL ANALYSIS

National party committees, like all political committees, are required to report certain expenditures made in support of candidates as in-kind contributions, and those expenditures are subject to the Act's contribution limits.⁷ In some circumstances, one political committee providing polling information to another committee could amount to an in-kind contribution. However, the FEC's regulations provide very specific guidance about how the costs of shared polling information must be allocated, and if each committee pays for their allocable share of the poll, then no in-kind contribution results.⁸ Under the FEC's regulations, one permissible method to allocate polling expenses is to "divide the overall cost of the poll equally among ... political committees receiving the results."⁹ This is exactly what the Respondents did here.

Both Jason Crow for Congress and DCCC requested and received the results of opinion polling. Because both committees received the results, the share of the overall cost was allocated equally between the two committees. Each committee paid for half of the cost of the polling, and reported its share of the expense on its FEC reports as required by the Act and FEC regulations. Because the value of the polling was allocated equally, and each committee paid an equal share of the cost, no in-kind contribution occurred.

As for the remaining allegations in the Complaint, that the DCCC made, and Crow accepted, in-kind contributions of "...mailing lists and other resources,"¹⁰ the Complainant alleges no specific

⁵ Lee Fang, *Secretly Taped Audio Reveals Democratic Leadership Pressuring Progressive to Leave Race*, The Intercept (Apr. 26, 2018) <https://theintercept.com/2018/04/26/steny-hoyer-audio-levi-tillmann/>.

⁶ The Complaint also alleges that the DCCC provided Jason Crow for Congress with "mailing lists" but this appears to be an error or intentionally made up out of whole cloth, as the news article they cite in support of this allegation only mentions email lists.

⁷ See 11 C.F.R. § 100.52(d).

⁸ 11 C.F.R. § 106.4(b).

⁹ 11 C.F.R. § 106.4(e)(2).

¹⁰ Complaint at 1.

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facts indicating that the DCCC provided any thing of value that would constitute an in-kind contribution. This allegation is based on an unverified statement by one of Mr. Crow's former primary opponents, who had no direct knowledge of the DCCC's or Mr. Crow's activities.¹¹ DCCC has not provided, either for sale or as an in-kind contribution, any of its email or mailing lists to Jason Crow for Congress. Nor has the DCCC provided Jason Crow for Congress with any other campaign resources that are reportable as in-kind contributions under the act. Unwarranted legal conclusions from asserted facts or mere speculation will not be accepted as true, and provide no independent basis for investigation.¹²

The allegations in this Complaint fail to provide a factual basis on which the Commission could find reason to believe that a violation of the Act or Commission regulations has occurred. We respectfully request that the Commission close the file in MUR 7391 and take no further action.

Very truly yours,



Marc E. Elias
Graham M. Wilson
Elizabeth P. Poston

Counsel to Respondents

¹¹ Lee Fang, *Secretly Taped Audio Reveals Democratic Leadership Pressuring Progressive to Leave Race*, The Intercept (Apr. 26, 2018) <https://theintercept.com/2018/04/26/steny-hoyer-audio-levi-tillemann/>.

¹² See FEC Matter Under Review 4960, Statement of Reasons of Commissioners Mason, Sandstrom, Smith and Thomas at 1 (Dec. 21, 2000).